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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**In re DARRELL A., a Person Coming
Under the Juvenile Court Law.**

THE PEOPLE,

Plaintiff and Respondent,

v.

DARRELL A.,

Defendant and Appellant.

A123612

**(Alameda County
Super. Ct. No. J-170020)**

Defendant Darrell A., born in December 1993, appeals from a dispositional order continuing defendant as a ward of the juvenile court (Welf. & Inst. Code, § 602), and placing him on probation subject to various conditions, after he was found to have committed robbery (Pen. Code, § 211) and battery (Pen. Code, § 242).¹ Defendant's sole contention on appeal is that the sustained robbery allegation was not supported by substantial evidence. We reject the contention and affirm.

BACKGROUND

On the afternoon of November 8, 2008, high school student Armani S. was standing outside of an Oakland restaurant, Las Palmas, while his mother was inside

¹ On the prosecution's motion, the court dismissed allegations of aggravated assault (Pen. Code, § 245, subd. (a)(1)) and vandalism (Pen. Code, § 594, subd. (b)(2)), and found a grand theft (Pen. Code, § 487, subd. (c)) allegation not true.

ordering food. Armani testified that defendant approached him and said, "I have got your back." Armani knew defendant from high school. Defendant spoke in an unusually loud and angry tone. Armani did not know what defendant was talking about. Defendant was with two other people, "Little P." and "Little Q.," who were standing with their bikes, about 20 feet away. Armani recognized Little Q., and had frequently ridden bikes with defendant and Little P. Armani's mother, K.B., heard defendant yelling at Armani and came out of the restaurant. K.B. told defendant not to disrespect her son, and Armani and defendant appeared to shake hands. Defendant asked to borrow Armani's phone and Armani gave it to him. K.B. told Armani to get a menu from a restaurant next door, Everett & Jones, and she went back inside Las Palmas to pay. Defendant gave Armani back his cell phone and walked off.

When Armani left Everett & Jones his cell phone was on his hip and his hand was over the phone, starting to pull it out. Defendant again approached and snatched Armani's phone out of Armani's hand. Armani described defendant's taking of the phone as follows: "He came up to me, and I had my hand over my phone and that's when he snatched it from right there. I was pulling it out of my -- like off my hip into my hand, and that's when he snatched it and rode off the other way."

Little P. and Little Q. were about three or four feet away when defendant snatched the phone. Armani thought defendant, Little P. and Little Q. were all acting together in taking his phone, and Armani felt "threatened" and "afraid." Armani hesitated to get his phone back because he was fearful that Little P. and Little Q. "were going to do something." Defendant then rode off on his bike.

K.B. testified she heard Armani yell "Mama," and when she looked out the window of the restaurant, she saw defendant quickly snatch Armani's phone from Armani's hand and ride off with it. K.B. said it was not possible that Armani let defendant have the cell phone because, "Armani is very sensitive about his phone" and will give it to someone to use if he trusts them. Based on the 30-minute "back and forth" between defendant and Armani, K.B. said Armani did not trust defendant.

After defendant took Armani's phone, K.B. got into her car and attempted to follow defendant, who was on his bike. She followed defendant to a gas station and asked him for the phone. Defendant laughed and rode away. K.B. then picked up Armani at Las Palmas, picked up Armani's stepfather, Steven V., at home and the three of them drove to a nearby Taco Bell. Defendant, Little P., and Little Q. were at the Taco Bell. Steven repeatedly asked defendant for Armani's phone and defendant repeatedly denied having it. Armani heard defendant say that Little P. had the phone, but Little P. denied having it. K.B. asked the Taco Bell personnel to call the police. Little P. and Little Q. then left.

Armani and defendant got into a physical fight in the Taco Bell parking lot. During the fight defendant asked his cousin, who was standing nearby, for a gun. The cousin denied the request and told defendant to return the phone. Defendant bit and scratched Armani during the fight. Steven and another man stopped the fight. Defendant then rode off. The police arrived about five minutes later. Armani's phone was never recovered. Armani admitted that he did not want to testify in court because someone had communicated that he "had snitched on somebody."

The Defense

Testifying in his own defense, defendant denied taking Armani's phone. Defendant said he knew that Little P. and Little Q. were planning to take Armani's phone and told them not to do it. Because he was afraid Little P. and Little Q. would hear him alert Armani about the planned phone theft, defendant instead told Armani, "I got your back." Defendant said Little P. grabbed Armani's phone from Armani's waist and then rode off. Defendant admitted that he lost his own cell phone the weekend before the incident. He said he stayed with Little P. and Little Q. after they committed the robbery so they would return the phone to Armani. He denied asking anyone for a gun and said Armani started the fight.

In sustaining the robbery allegation, the court rejected defendant's testimony as lacking in credibility. It found that defendant "set[] Armani up" to be robbed and then took Armani's cell phone from him. The court found that defendant tried to disarm

Armani so that Armani would “lower his guard” in order to be robbed. The court found that Little P. and Little Q. were present during, but uninvolved in, defendant’s robbery of the cell phone. The court concluded that defendant’s conduct constituted robbery rather than grand theft from the person because the snatching of the phone indicated force and Armani was fearful while the taking occurred. The court also found that because Armani’s parents were still trying to get the phone back from defendant at the Taco Bell, the robbery was not complete until “all of the events [at Taco Bell] had concluded.” The court also determined that Armani acted in self-defense and defendant committed battery.

DISCUSSION

Defendant contends the robbery allegation was improperly sustained because there was no substantial evidence that he used force or fear in taking Armani’s cell phone.

In resolving defendant’s sufficiency of the evidence claim, we must review “ ‘the entire record in the light most favorable to the prosecution to determine whether it contains evidence that is reasonable, credible, and of solid value, from which a rational trier of fact could find the defendant guilty beyond a reasonable doubt.’ ” (*People v. Gomez* (2008) 43 Cal.4th 249, 265 (*Gomez*).) In doing so we must make all reasonable inferences to support the findings of the juvenile court. (*In re Robert V.* (1982) 132 Cal.App.3d 815, 821.) “ ‘The testimony of a single witness is sufficient to uphold a judgment even if it is contradicted by other evidence, inconsistent or false as to other portions. [Citations.]’ [Citation.]” (*Ibid.*)

Robbery is defined as “ ‘the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.’ ” (*Gomez, supra*, 43 Cal.4th at p. 254, quoting Pen. Code, § 211.) “ ‘[A] robbery is not completed at the moment the robber obtains possession of the stolen property and . . . the crime of robbery includes the element of asportation, the robber’s escape with the loot being considered as important in the commission of the crime as gaining possession of the property. . . . [¶] Accordingly, if one who has stolen property from the person of another uses force or fear in removing, or attempting to remove, the property from the owner’s immediate presence, . . . the crime

of robbery has been committed.’ ” (*Gomez*, at p. 255, quoting *People v. Anderson* (1966) 64 Cal.2d 633, 638.) “[A] robbery can be accomplished even if the property was peacefully or duplicitously acquired, if force or fear was used to carry it away.” (*Gomez*, at p. 256.)

Defendant argues there was no substantial evidence that he used force to obtain the phone because, “there was no force used to get the phone beyond that necessary to take possession of the phone. [Defendant] simply grabbed the phone out of [Armani’s] hand.” He asserts there was no evidence that he used more force than necessary to obtain the phone. Defendant also argues there was no substantial evidence that he used fear to obtain the phone, since there was no evidence that Armani was afraid of him at the time he took the phone or thereafter.

When the court asked Armani whether he was “in any fear” when defendant snatched the phone from him, Armani said, “[s]ort of.” Armani was fearful of Little P. and “the other [boy]” because he “thought they were going to do something.” And, Armani thought that defendant, Little P., and Little Q. were all acting together in taking his phone. Given Armani’s reluctance to testify, the court could reasonably infer that “sort of” meant “yes” and could reasonably find that the phone was taken from Armani by fear. The court could also reasonably infer that such fear was justified by Armani’s belief that defendant, Little P., and Little Q. were acting together at the moment when defendant snatched the phone. Substantial evidence supports the court’s finding that defendant took the phone by means of fear.

Given the substantial evidence of fear at the time the phone was taken, the court properly sustained the robbery allegation.

DISPOSITION

The order is affirmed.

SIMONS, Acting P. J.

We concur:

NEEDHAM, J.

BRUINIERS, J.